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Pro Se

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED
SEP 12 2011
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

*899
Jep
NT*

John R. Botti III,
Plaintiff,

vs.

Trans Union LLC,
Defendant

Case No.:

Complaint

(Fair Credit Reporting Act)
15 USC 1681

DEMAND FOR JURY TRIAL

CV 11-04519

PSG

Jurisdiction and Venue

1. This action is brought pursuant to the Fair Credit Reporting Act, 15 USC 1681 et seq. (FCRA). The court has jurisdiction over the FCRA claims pursuant to 15 USC 1681p and over state law claims pursuant to 15 USC 1367.
2. Plaintiff brings claims against defendant based on violations of the FCRA and violations of the California Consumer Credit Reporting Agencies Act, Civil Code 1785.1 et seq.

Description of the Case

3. Plaintiff was a victim of identity fraud. After litigation in a preceding case resulting from the fraud, defendant Trans Union has placed plaintiff's credit file in permanent suppression status.

1 4. As a result of such status, plaintiff is unable to obtain credit from any creditor who uses
2 the services of Trans Union to evaluate credit. Plaintiff is unable to to obtain real estate
3 financing or refinancing, because creditors in that industry require evaluation of all three
4 credit scores.

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6 5. Plaintiff has requested amelioration in writing on several occasions to an agent for Trans
7 Union, Margaret McNiff at 1561 E. Orangethorpe Avenue Fullerton, CA 92834-9412.
8 All requests to lift the suppression have been denied in writing.

9
10 **The Defendant Credit Reporting Agency Has Failed To Comply With Their Duty**
11 **Under the FCRA After Repeated Requests in Writing**

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13 6. Plaintiff has been informed and believes that defendant has no intention of ever lifting the
14 suppression of his credit file, resulting in lifetime prejudice and inability to obtain credit,
15 particularly real estate financing of any kind.

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18 **Damages**

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20 7. As a consequence of defendant's violation of the FCRA and California Civil Code,
21 plaintiff is damaged.

22
23 8. Plaintiff's credit score and file are totally unavailable.

24
25 9. Plaintiff is unavailable to refinance at attractive mortgage rates currently at historically
26 favorable rates. Plaintiff has been denied mortgages with every major finance company
27 due to the unavailability of the credit file and score.
28

1 10. Plaintiff's ability to seek employment is also hindered by any employer seeking to review
2 a Trans Union credit report in order to ascertain plaintiff's fitness for employment.

3
4 **The Parties**

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6 11. Plaintiff John R. Botti is a resident of Campbell, CA.

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8 12. Defendant Trans Union LLC is a Delaware corporation with its principal place of
9 business in Chicago, IL., doing substantial business in all 50 states.

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11 **First Claim : Defendant's Violations of the Fair Credit reporting Act, 15 USC 1681**

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13 13. The Fair Credit Reporting Act provides that consumer reporting agencies have a
14 grave responsibility regarding fairness, impartiality, and respect for fair and accurate
15 credit reporting. Simply eliminating a consumer's ability to have her credit available
16 for review by a creditor is inherently unfair. Real estate transactions modernly
17 require without exception the ability for a lender to evaluate all three credit scores,
18 and use the middle one for determination of loan creditworthiness. Without all three
19 scores, no loan offer is extended thereby completely eliminating the ability of a
20 consumer to obtain financing of any kind.

21
22 14. Plaintiff's credit report and scores have been completely shut off by Trans Union
23 starting approximately 7/1/11. As a result of the above described violation plaintiff
24 has accrued actual pecuniary damages.

25 15. Plaintiff additionally requests damages for emotional distress, and will suffer
26 additional future damages.

27
28 16. Plaintiff hereby requests costs and reasonable fees as determined by the court.

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2 17. Plaintiff requests punitive damages in accordance with 15 USC 1681n (a) and 1681o
3 (a).

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5 **Second Claim: Violations of the California Consumer Credit Reporting Agencies Act,**
6 **California Civil Code 1785.10 et seq.**

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8 18. Plaintiff incorporates by reference 1-17.

9
10 19. California Civil Codes 1785.10 (a), 1785.15, and 1785 .17 state that credit agencies
11 “must make all applicable files available for inspection on the request of the
12 consumer”. These sections further state that credit scores must be provided on
13 request.

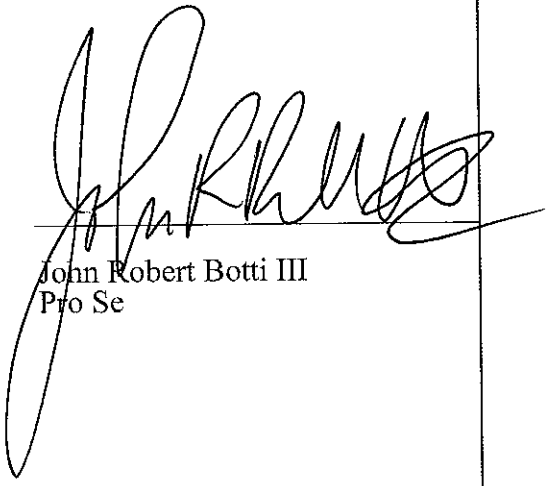
14
15 20. Based on these violations, plaintiff is entitled to the remedies afforded under civil
16 code 1785.31, including actual damages, fees, pain and suffering, punitive
17 damages in amounting to not less than \$100 nor more than \$5,000 for each
18 violation the court deems as proper.

19
20 **PRAYER**

21
22 Wherefore, plaintiff prays for judgment as follows:

- 23
24 1. Actual Damages;
25 2. Statutory Damages;
26 3. Punitive Damages;
27 4. Costs of the action;
28 5. Such alternative relief as the Court may deem as appropriate.

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2 Dated September 9, 2011.
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